No. 15 Misc.

In the Supreme Court of the United States

OCTOBER TERM, 1951

FAR EAST CONFERENCE, UNITED STATES LINES COMPANY, STATES MARINE CORPORATION, ET AL., PETITIONERS

v.

UNITED STATES OF AMERICA

ON MOTION FOR LEAVE TO FILE PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

BRIEF FOR THE RESPONDENT IN OPPOSITION

INDEX

CITATIONS

Cases:

Statutes:

In the Supreme Court of the United States

OCTOBER TERM, 1951

No. 15 Misc.

FAR EAST CONFERENCE, UNITED STATES LINES COMPANY, STATES MARINE CORPORATION, ET AL., PETITIONERS

v.

UNITED STATES OF AMERICA

ON MOTION FOR LEAVE TO FILE PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

BRIEF FOR THE RESPONDENT IN OPPOSITION

OPINION BELOW

The opinion of the district court (R. 97) is reported at 94 F. Supp. 900.

JURISDICTION

The order of the district court sought to be reviewed was entered on March 7, 1951 (R. 104-5). The motion for leave to file a petition for a writ

of certiorari was filed on June 2, 1951. The jurisdiction of this Court is invoked under 28 U.S.C. 1651(a).

QUESTIONS PRESENTED

In an action by the United States under the Sherman Act, a conference of shipping lines and its members have been charged with agreeing to coerce shippers to patronize conference members exclusively by charging shippers who enter exclusive dealing contracts with conference members a "contract rate," and charging shippers who do not do so a discriminatively higher "non-contract rate." Motions to dismiss the action on the ground that the subject matter of the suit is exclusively within the jurisdiction of the Maritime Board were overruled. The questions presented are:

1. Whether the Shipping Act of 1916, as amended, deprives the district court of jurisdiction of this action.

2. Whether the above question is of a character which warrants grant of an extraordinary writ to review the interlocutory order of the district court overruling motions to dismiss.

STATUTES INVOLVED

The pertinent sections of the Sherman Act and of the Shipping Act, 1916, as amended, are set forth in the Appendix, *infra*, pp. 19-21.

STATEMENT

This is a suit by the United States against petitioners under Section 4 of the Sherman Act. Petitioners are 25 steamship lines which are associated together in petitioner Far East Conference under a conference agreement which was approved in 1922 by the United States Shipping Board (a predecessor of the Federal Maritime Board) under the provisions of Section 15 of the Shipping Act, 1916, 39 Stat. 733, 734, 46 U.S.C. 814 (Compl., par. 29, R. 4-5).[1]

The complaint alleges that petitioners have engaged in a continuing agreement and concert of action to control the transportation of cargo in the outbound Far East trade by establishing and maintaining a system of "contract rates" and higher "non-contract rates," the sole consideration for the enjoyment of the lower "contract rates" being the agreement of the shipper to patronize members of the Far East Conference exclusively in the outbound Far East trade. It is further charged that pursuant to this conspiracy shippers have in fact been coerced to enter into exclusive freight agreements,[2] and that the obligation imposed by the contracts has been enforced by petitioners by threats of withdrawal of "contract rates" and the imposition of oppressive fines and

[1] A copy of the conference agreement as amended is appended to the complaint (Ex. A, R. 8-16).

[2] A sample agreement was appended to the complaint as an exhibit (Ex. B, R. 16-20).

penalties for any breach. It was charged that the purpose of petitioners was to drive out of outbound Far East trade steamship lines which were not parties to petitioners' combination, and that the exclusive patronage contracts and threats of penalties for deviation therefrom have eliminated competition, and thereby restrained and monopolized foreign trade of the United States. (R. 5-6.)

Petitioners filed answers (R. 21, 46) admitting their concerted use of the "contract rates" and "non-contract rates" and the exclusive dealing agreements with shippers, but asserting, *inter alia*, that this practice was in conformity with the Conference Agreement, and that the approval of that agreement by the Shipping Board exempts petitioners' activities from the reach of the Sherman Act (Ans., par. forty-eighth, R. 37; Ans., par. forty-ninth, R. 62).[3] The United States filed a motion for judgment on the pleadings (R. 93).

Thereafter the United States Maritime Commission (now Federal Maritime Board) sought and was granted leave to intervene as a defendant (R. 94). Petitioners and the Maritime Commission then filed motions to dismiss the complaint on the ground, *inter alia*, that the court lacked jurisdiction of the subject matter (R. 72, 74, 95). After full briefing and argument of the pending motions,

---

[3] Supplemental answers not material here were filed at a later time (R. 76, 85, 95).

the court below overruled the motions to dismiss, and also overruled the Government's motion for judgment on the pleadings (R. 97). With respect to the motions to dismiss, the court held that approval of agreements among the petitioners under Section 15 of the Shipping Act would at most furnish a legal defense in the antitrust action, but would not deprive the court of jurisdiction to entertain the action (R. 100). With respect to the motion for judgment on the pleadings the court held that the answers raised issues of law and fact which should be decided after a trial on the merits (R. 102).

ARGUMENT

I

The question which petitioners seek to bring before this Court is whether the Federal Maritime Board has exclusive primary jurisdiction of the subject matter of the Government's suit. Under Section 4 of the Sherman Act, federal district courts have jurisdiction of suits by the Government to prevent violations of the Act. The Shipping Act takes away this plenary jurisdiction only if it can be said that the latter Act withdraws from the purview of the Sherman Act all activities subject to regulation under the later statute, and thus *pro tanto* repeals the prohibitions of the Sherman Act. The Shipping Act does not expressly provide for such repeal, and we submit that it is not to be construed as impliedly effecting a repeal. This

Court has frequently passed upon and rejected the contention that other federal regulatory statutes have impliedly excluded from the Sherman Act the persons and activities subject to their provisions.

Before considering the decisions so holding, we note that the question presented for review is whether the Shipping Act in and of itself constitutes a bar to the Government's suit. The proposed petition for certiorari does not present the question of whether petitioners' discriminatory rate agreements (as distinguished from the general conference agreement, see note 1, *supra*, p. 3) have been approved under the Shipping Act and have thereby been exempted from the Sherman Act. Even if it be assumed, which the Government denies, that the Maritime Board[4] has statutory authority to approve the particular type of agreements upon which the charges in the complaint are based, no such approval is set forth in the complaint, which is the record upon which the motion to dismiss must be determined.[5] Accordingly, the

---

[4] We use the term "Maritime Board" to refer to the Federal Maritime Board and its various predecessors.

[5] The complaint charges agreement to control transportation between United States ports and the Far East by establishing and maintaining a system of "contract rates" and higher "non-contract rates," with grant of the lower "contract" rates conditioned upon the shipper's agreement to utilize petitioners' facilities exclusively. The allegation of the complaint (R. 5) that the Maritime Board had approved petitioners' Far East Conference Agreement does not show approval of this discriminatory system of rates. No language of the Conference Agreement authorizes, even by implication, use of such a system, and the prohibition of "unjust dis-

question presented on a review of the district court's order denying petitioners' motion to dismiss is whether the mere fact that petitioners' agreements may be within jurisdiction given the Maritime Board by the Shipping Act, bars the Govern-

---

crimination" against any shipper in paragraph 2 of the Agreement (R. 9) would seem to outlaw any such system.

The Maritime Board has at times approved use of the "contract" and "non-contract" rate system as employed by other shipping conferences. In *A/S J. Ludwig Mowinckels Rederi, et al.* v. *Isbrandtsen Co., Inc., et al.* and *Federal Maritime Board* v. *United States, et al.* (Nos. 134, 135, this Term) appeals are presented from the decision of a three-judge district court setting aside (on other grounds) an order of the Maritime Board which had approved use of the discriminatory rate system in the particular circumstances of that case. But there has been no uniform administrative practice. The opinion of the district court in that case (*sub nom. Isbrandtsen* v. *United States*, S.D.N.Y., Civ. No. 47-749) March 20, 1951, reviews the history of the "contract" and "non-contract" rate system before the Board and concludes that "the decisions of the Board (none of which approving a dual-rate provision has heretofore come to court) have lacked uniformity and consistency; and, in such circumstances, administrative interpretations have little weight."

In the court below petitioners and the Maritime Board contended that the Board's approval of the Far East Conference Agreement, which authorizes its members to agree upon rates and charges (pars. 1, 9, R. 8, 11), operates as an approval of any and all rates which the Conference may later adopt. Our answer to this is twofold. First, such approval, at the very most, extends only to rates filed with the Board, and the complaint does not show that petitioners' "contract," "non-contract" rates have been filed with the Board. Second, the suggested scope to be given the Board's approval of the Conference Agreement would be delegation run riot of public authority to private parties; it would mean that the Board had authorized a combination which "is in reality an extra-governmental agency, which prescribes rules for the regulation and restraint of interstate commerce" (*Fashion Originators' Guild, Inc.* v. *Federal Trade Commission*, 312 U.S. 457, 465). Moreover, the Government denies that the Board is authorized by the statute to approve the contract, no-contract system of rates used by petitioners. See Section 14, Third, of the Shipping Act (*infra*, p. 19).

ment, in the absence of exercise of such jurisdiction, from bringing a Sherman Act proceeding charging that the agreements violate that Act.

In many respects the Shipping Act parallels the Interstate Commerce Act, and it is therefore significant that the latter statute has been held not to preempt the field, to the exclusion of Government proceedings under the Sherman Act against regulated railroads. The Interstate Commerce Act, by virtue of amendments adopted subsequent to the Sherman Act, is of sweeping regulatory character, but it is settled that the Act gives the railroads no blanket immunity from the Sherman Act and that the Government may proceed against them for violation of its provisions. *United States* v. *Pacific & Arctic Co.*, 228 U.S. 87. See *Keogh* v. *Chicago & N. W. Ry. Co.*, 260 U.S. 156, 161-162; *Central Transfer Co.* v. *Terminal R.R. Assn.*, 288 U.S. 469, 474-475; *Terminal Warehouse Co.* v. *Pennsylvania R.R. Co.*, 297 U.S. 500, 513; *Georgia* v. *Pennsylvania R.R. Co.*, 324 U.S. 439, 456-458.

The early *Pacific & Arctic* case, *supra*, is an apt illustration that the doctrine of prior administrative determination, applicable to judicial proceedings based upon obligations imposed by a regulatory statute such as the Interstate Commerce Act, does not apply to a suit by the Government to enforce the Sherman Act. In that case the district court had dismissed an indictment containing two counts charging violation of the Sherman Act and

three counts charging violation of the Interstate Commerce Act, upon the theory that the acts charged against the defendants concerned discrimination in rates and through billing which the Interstate Commerce Act committed to the Interstate Commerce Commission for initial determination. This Court upheld the decision as to the Interstate Commerce Act counts but reversed as to the Sherman Act counts. The Court held that since the latter counts set forth a combination prohibited by the Sherman Act, the power of the Interstate Commerce Commission over the rates and through-traffic arrangements adopted by the defendants was irrelevant. 228 U.S. at pp. 104-105.

In *United States* v. *Borden Co.*, 308 U.S. 188, the district court had dismissed a Sherman Act indictment upon the ground that the Agricultural Marketing Agreement Act had vested in the Secretary of Agriculture such extensive regulatory power with respect to the marketing of milk that this Act had superseded the Sherman Act as to such marketing. This Court, in reversing, referred to the cardinal principle of construction that repeals by implication are not favored, and stated that a new law repeals the old only if there is "positive repugnancy" between their provisions and even then "only *pro tanto* to the extent of the repugnancy." 308 U.S. at pp. 198-199. The Court also pointed out that the Agricultural Act "expressly defines the extent to which its provisions make the anti-

trust laws inapplicable," and thus showed "beyond question how far Congress intended" that the later statute should supersede the earlier one (*id.*, at pp. 200, 201).[6]

The Court in the *Borden* case also held that the Capper-Volstead Act, which authorizes the members of agricultural cooperatives to combine together in marketing their products and provides for administrative action by the Secretary of Agriculture to determine whether action taken under the statute has resulted in undue enhancement of price, does not remove such cooperatives from the Sherman Act and does not substitute administrative action for judicial enforcement of the Sherman Act (*id.*, at pp. 203-206).

U. S. Alkali Association v. *United States*, 325 U.S. 196, involved the question whether the Webb-Pomerene Act conferred upon the Federal Trade Commission primary jurisdiction to pass upon violations of the Sherman Act by export associations. Under Section 5 of the Webb-Pomerene Act (15 U.S.C. 65) the Commission has the duty to investigate such violations, the power to make recommendations to the association for readjust-

[6] The Shipping Act, like the Agricultural Act, contains an express exemption from the antitrust laws. The next to the last paragraph of Section 15 (*infra*, p. 21) grants such exemption as to any agreement "lawful under this section." But under the terms of the preceding paragraph of the section, an agreement is lawful "only when and as long as approved by" the Maritime Board, and, as we have previously stated (*supra*, pp. 6-8), in the present posture of the case it cannot be assumed that the agreements which the Government is challenging have been approved by the Board.

ment of its activities, and, if the recommendations are not accepted, the duty to refer the matter to the Attorney General. On its face, this provision is susceptible of the interpretation that exhaustion of the administrative procedure was intended to be a prerequisite to judicial enforcement of the Sherman Act against an export association. But this Court held that the powers vested in the Commission did not impliedly curtail the Attorney General's statutory authority to institute proceedings to prevent violation of the Act. The Court said (325 U.S. at p. 206):

> A *pro tanto* repeal of that authority, by conferring upon the Commission primary jurisdiction to determine when, if at all, an antitrust suit may appropriately be brought, would require a clear expression of that purpose by Congress.

Petitioners attempt to distinguish the *Pacific & Arctic*, *Borden* and *Alkali* cases upon the ground that the regulatory statutes which the defendants there relied upon gave to the respective administrative agencies no power of prohibition as to the conduct charged to be in violation of the Sherman Act, whereas the Shipping Act renders unlawful agreements which do not meet its standards (Pet. Br. 18-20).[7] But this distinction

---

[7] The decision in the *Borden* case, insofar as it relates to the Capper-Volstead Act, is not within the asserted distinction. The Capper-Volstead Act gives the Secretary of Agriculture power to prevent undue restraint of trade or monopoliza-

is without significance since offenses condemned by the Shipping Act are totally distinct from the offenses condemned by the Sherman Act. As to the latter Act, the Shipping Act gives the Board no power of enforcement, just as in the *Pacific & Arctic*, *Borden* and *Alkali* cases the respective regulatory statutes gave no such power to the administrative agencies there involved. And particular activity may and frequently does fall within the condemnation of two or more statutes.

Petitioners' major reliance is upon *U. S. Navigation Co., Inc.* v. *Cunard Steamship Co.*, 284 U.S. 474. The Court there held that the Shipping Act supersedes the antitrust laws with respect to *private* actions brought under Section 16 of the Clayton Act complaining of wrongs for which the Shipping Act provides a redress. The principal grounds given for this conclusion (pp. 480-483) were that the Shipping Act closely parallels the Interstate Commerce Act both in its general scope and purpose and in its terms; that the settled construction given the earlier Act must be applied to the later one; and that the Interstate Commerce Act had been construed to bar a private party from proceeding under the antitrust laws where the Interstate Commerce Act applied to,

---

tion by agricultural cooperatives, but this Court held that the authority thus conferred (in an area common with that of the Sherman Act) was auxiliary to, rather than an implied substitute for, the provisions of the Sherman Act (308 U.S. at p. 206).

and gave a remedy for, the acts of which he complained.[8]

But the Court in the *Cunard* case made it clear that it was not passing upon the right of the *Government* to prosecute actions under the antitrust laws based upon matters within the general purview of the Shipping Act. 284 U.S. at p. 483. Since it is now settled that the bar which the Interstate Commerce Act interposes to antitrust suits by private parties does not apply to suits by the Government (see cases cited, *supra*, p. 8), it seems clear that the "parallel" Shipping Act must be given the same interpretation.

The provisions of Section 16 of the Clayton Act, 15 U.S.C. 26, furnish strong confirmation for the distinction thus drawn between Government suit and private suit. Prior to the adoption of this section, the Government alone was authorized to maintain a suit to restrain violations of the antitrust laws. *Paine Lumber Co.* v. *Neal*, 244 U.S. 459. Section 16 authorized private parties to maintain such suits, but provided that no person, "except the United States," may bring suit for injunctive relief against any common carrier subject to the Interstate Commerce Act "in respect to any matter subject to the regulation, supervision, or other jurisdiction of the Interstate Commerce Commission." This limita-

[8] See *Keogh* v. *Chicago & N. W. Ry. Co.*, 260 U.S. 156, cited in the *Cunard* case at pp. 483, 485.

tion had as its "obvious purpose" precluding any interference with activities of interstate carriers subject to the Commission's jurisdiction "except when the suit is brought by the Government itself." *Central Transfer Co.* v. *Terminal R. R. Assn.*, 288 U.S. 469, 475.

The distinction between a private and a Government antitrust suit attacking conduct of carriers which is within the area of federal regulation is not the product of judicial vagary. It rests on considerations of substance such as are determinative of the application of the Sherman Act when there is real or apparent conflict between the policy of that Act and the policy of other federal statutes having different objectives. In a suit under the antitrust laws by a private party against regulated carriers, there are persuasive reasons for concluding that Congress intended to make the carrier-regulating statute paramount—the regulatory statute's express provisions for redress of private rights and the emphasis which these statutes place upon uniformity of treatment among those served by a carrier. These considerations are not applicable to antitrust proceedings by the United States. Such suits are in vindication of public rights, for which the regulatory statutes provide no clear remedy.[9] And the de-

[9] Under the provisions and language of Section 22 of the Shipping Act, it is doubtful whether the United States, acting in its sovereign capacity, is a "person" entitled to file a complaint with the Maritime Board attacking the discriminatory character of rates adopted by steamship lines. *United States*

cision rendered in a Government antitrust suit will not give rise to inequality among those whom the carrier serves, a probable result of a private antitrust action.[10]

We further note that the issue raised in the present case does not involve technical and intricate matters of fact or require resolution of questions demanding exercise of administrative discretion. Whether petitioners' agreements have been "approved" by the Maritime Board within the meaning of Section 15 of the Shipping Act is a mixed question of law and fact to be determined on the evidence adduced at trial. Whether the Act authorizes the Board to approve such agreements is a question of statutory construction, in other words, a pure question of law.

The question of statutory construction last mentioned will undoubtedly be raised in *A/S J. Ludwig Mowinckels Rederi, et al.* v. *Isbrandtsen Co., Inc., et al.*, and *Federal Maritime Board* v. *United States, et al.*, (Nos. 134, 135, this Term),

---

v. *Interstate Commerce Commission*, 337 U.S. 426, which upheld the right of the United States to maintain an action for the recovery of injury suffered by it as a *shipper* of goods, involved altogether different considerations and statutory provisions. Nor does the United States have an adequate remedy under Section 22 merely because it may be entitled to intervene if proceedings thereunder have been instituted by a private party or by the Maritime Board.

[10] In the *Keogh* case the Court said that recovery by a shipper in a triple damage suit under the antitrust laws would be the equivalent of a rebate, stringently prohibited by the Interstate Commerce Act. "Uniform treatment would not result, even if all sued, unless the highly improbable happened, and the several juries and courts gave to each the same measure of relief." 260 U.S. at p. 163.

which are appeals from the decision of a three-judge district court setting aside an order of the Board. See note 5, *supra*, p. 7. These appeals from a final judgment on a full record would seem to present an appropriate opportunity for early resolution of this issue without the necessity for granting an extraordinary writ to review the instant case at a premature stage.

II

There is no doubt that this Court is empowered by 28 U.S.C. 1651(a) to issue a common-law writ to review an interlocutory order of the character here involved. *U. S. Alkali Assn. v. United States*, 325 U.S. 196. But the common-law writs which may be issued in aid of the Court's appellate jurisdiction are extraordinary remedies to be reserved for "really extraordinary causes." *Ex parte Fahey*, 332 U.S. 258, 260. They are ordinarily to be used only when "the circumstances imperatively demand that form of interposition * * * to correct excesses of jurisdiction and in furtherance of justice." *In re Chetwood*, 165 U.S. 443, 462.

The Court has always been reluctant to use the extraordinary remedies authorized by 28 U.S.C. 1651(a) to bring up for review interlocutory rulings in proceedings as to which Congress has permitted appeals only from final judgments. The present attempt to obtain review of denial of a motion to dismiss an antitrust action is such a

case. By the Expediting Act, 15 U.S.C. 29, Congress "limited the right of review to an appeal from the decree which disposed of all matters; see *Collins* v. *Miller*, 252 U.S. 364; and it precluded the possibility of an appeal * * * from an interlocutory decree." *United States* v. *California Co-Operative Canneries*, 279 U.S. 553, 558. To permit review of the present order would "thwart the Congressional policy against piecemeal appeals" and would be a "plain evasion" of the enactment of Congress that only final judgments be brought up for appellate review. *Roche* v. *Evaporated Milk Assn.*, 319 U.S. 21, 30; *Bank of Columbia* v. *Sweeney*, 1 Pet. 567, 569.

We have shown under point I that the decision below is plainly correct, and there is no conflict of decisions. We submit that the motion for leave to file should be rejected, not only because of the policy against piecemeal appellate review and the related policy of confining review by extraordinary writ to questions of broad public importance, but also because the facts adduced at the trial of this case are likely to shed illumination on the point of primary jurisdiction as to which review is sought. On appeal from the district court's final decision, this Court will be in a better position than it now is to exercise an informed judgment on the question raised by the proposed petition for writ of certiorari if that question is then presented.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the motion for leave to file petition for writ of certiorari should be denied.

PHILIP B. PERLMAN,
Solicitor General.

H. G. MORISON,
Assistant Attorney General.

CHARLES H. WESTON,
J. ROGER WOLLENBERG,
Special Assistants to the Attorney General.

JULY, 1951.

APPENDIX

Section 4 of the Act of July 2, 1890, 26 Stat. 209, known as the Sherman Act, provides in part as follows:

> The several district courts of the United States are hereby invested with jurisdiction to prevent and restrain violations of this act; and it shall be the duty of the several district attorneys of the United States, in their respective districts, under the direction of the Attorney-General, to institute proceedings in equity to prevent and restrain such violations. * * *. [15 U. S. C. 4.]

The Shipping Act, 1916, 39 Stat. 728, as amended, 41 Stat. 996, 46 U.S.C. 801 *et seq.*, provides in part as follows:

> Sec. 14. That no common carrier by water shall, directly or indirectly, in respect to the transportation by water of passengers or property between a port of a State, Territory, District, or possession of the United States and any other such port or a port of a foreign country—
>
> * * * * * *
>
> Third. Retaliate against any shipper by refusing or threatening to refuse, space accommodations when such are available, or resort to other discriminating or unfair methods, because such shipper has patronized any other carrier or has filed a complaint charging unfair treatment, or for any other reason. [46 U. S. C. 812.]

Sec. 15. That every common carrier by water, or other person subject to this Act, shall file immediately with the [Federal Maritime Board] * * *, a true copy, or, if oral, a true and complete memorandum, of every agreement with another such carrier or other person subject to this Act, or modification or cancellation thereof, to which it may be a party or conform in whole or in part, fixing or regulating transportation rates or fares; giving or receiving special rates, accommodations, or other special privileges or advantages; controlling, regulating, preventing, or destroying competition; pooling or apportioning earnings, losses, or traffic; allotting ports or restricting or otherwise regulating the number and character of sailings between ports; limiting or regulating in any way the volume or character of freight or passenger traffic to be carried; or in any manner providing for an exclusive, preferential, or cooperative working arrangement. The term "agreement" in this section includes understandings, conferences, and other arrangements.

The board may by order disapprove, cancel, or modify any agreement, or any modification or cancellation thereof, whether or not previously approved by it, that it finds to be unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or to operate to the detriment of the commerce of the United States, or to be in violation of this

Act, and shall approve all other agreements, modifications, or cancellations.

Agreements existing at the time of the organization of the board shall be lawful until disapproved by the board. It shall be unlawful to carry out any agreement or any portion thereof disapproved by the board.

All agreements, modifications, or cancellations made after the organization of the board shall be lawful only when and as long as approved by the board, and before approval or after disapproval it shall be unlawful to carry out in whole or in part, directly or indirectly, any such agreement, modification, or cancellation.

Every agreement, modification, or cancellation lawful under this section shall be excepted from the provisions of the Act approved July second, eighteen hundred and ninety, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," and amendments and Acts supplementary thereto, and the provisions of sections seventy-three to seventy-seven, both inclusive, of the Act approved August twenty-seventh, eighteen hundred and ninety-four, entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes," and amendments and Acts supplementary thereto.

Whoever violates any provision of this section shall be liable to a penalty of $1,000 for each day such violation continues, to be recovered by the United States in a civil action. [46 U. S. C. 814.]

☆ U. S. GOVERNMENT PRINTING OFFICE: 1951 937171 2